IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR

::::

O R D E R

Raj.Agricultural Service Association.
Vs.
State of Rajasthan & Anr.

S.B. CIVIL WRIT PETITION NO.4239/2005
UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 05th October, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.R.S. Saluja, Advocate for the petitioner.
Mr.N.M. Lodha, Additional Advocate General.

BY THE COURT

This writ petition has been filed by the petitioner Rajasthan Agricultural Service Association who claims to

espouse the cause of its members serving in the Agriculture Extension Wing of the respondent department. According to Rule 6 of the Rajasthan Agriculture Service Rules, 1960 (for short 'Rules of 1960') service has been divided into four sections namely; Extension Wing, Research Wing, Agriculture Engineering Wing and Agriculture Statistics. Each of the wing has got separate source of recruitment with separate seniority in all the four wings. Promotions are also made within each wing separately with separate line of promotion. They do not have inter relation with each other except that all the wings are discharging their duties to advance development of agriculture in the State of Rajasthan. According to the petitioner, a large number of posts are lying vacant in the Extension Wing because the respondents have not convened meeting of DPC to consider the case of eligible candidates for promotion. The petitioner association has been representing to the respondents to consider the case of its members for promotion. Reference has been made to Rule 10 of the Rules of 1960 which pertains to year-wise determination of vacancies. While on one hand, the respondents have not been making promotion in Extension

Wing inspite of availability of the eligible candidates. On the other hand, they have been manning senior posts in the Extension Wing by transferring the personnel from Research Wing. This has been causing great amount of dissatisfaction amongst the members of the petitioner association. The petitioner has challenged the order 15th July, 2005 passed by the respondents whereby officers from Research Wing have been posted against the senior posts in Extension Wing. It is therefore prays that the order dated 15th July, 2005 to the extent it transfers the officers from Research Wing to Extension Wing be quashed and set aside and the respondents be directed to consider the case of eligible candidates for promotion to higher post in Extension Wing.

The writ petition has been contested by the respondents who in their reply have raised a preliminary objection about maintainability of the writ petition. It has been submitted that the petitioner have not come with clean hands and have not made full and frank disclosers in the memorandum of the writ petition. After the petitioner association represented to the

respondents, meeting of the DPC was convened for recommending promotion against the posts of Joint Director on 28th June, 2003 and promotions have already been made against the vacancies up to the year 2003-2004. The DPC thereafter was also convened on 19th January, 2001 to recommend the promotions to the post of Dy. Director and accordingly promotions have been made against the post of Dy. Director for vacancies of the year 2003-2004. Meeting of the DPC was also convened on 28th February, 2004 to recommend suitable candidates for promotion on the post of Assistant Director and accordingly, promotions have been made on the post of Assistant Director against the vacancies up to the year 2002-2003. Even though the writ petition has been filed in the mid of the year 2005, the petitioners have not mentioned any of these fact. It has been submitted that promotions could not be made earlier because there was a general ban for making any of promotion in the State Government up to the year 2002. So far as the vacancies of the post of Joint Director of the year 2004-2005 is concerned, no person was found eligible in the Extension Wing, therefore, the

department has recommended for grant of relaxation to certain officers in relation to required experience so that promotions can be made. This fact has also been suppressed by the petitioner. Challenge to the order dated 15th July, 2005 is misconceived because by this order, the respondents have merely made certain posting on temporary basis in the form of stop gap arrangement and no right thereby accrued in any of the persons named therein to permanently hold the post in the Extension Wing even though he was not born on such Wing. The respondents have also cited the instances of the persons who even though belong to Extension Wing yet have been posted in the Research Wing. Names of Bheema Ram and P.C. Patni have been given to substantiate this. It has been denied that determination of vacancy has not been made on regular basis and promotions are being delayed. According to the respondents, the writ petition has been filed without verifying the basic facts and therefore is liable to be dismissed.

The petitioners have filed rejoinder to the reply submitted by the respondents. In the rejoinder, they have given the

details of number of posts which are lying vacant even after promotions were made by the respondents. Most of which are in the cadre of Accounts Officer and Agricultural Officer. It has been contested that no promotion has been made on the post of Assistant Agriculture Officer after the DPC was last convened to recommend promotions against the post of the year 1996-97. Similarly no promotions have been made on the post of Agricultural Officer after the DPC of the year 1998-99 and also no promotions have been made on the post of Assistant Direction (Agriculture Extension) after the DPC of the year 2003-2004.

The respondents have filed an additional affidavit to place subsequent development on record. According to the averments of this additional affidavit D.P.C. for one post of Assistant Director (Agriculture Extension) of the year 2006-2007 has been convened and there was now no vacancy on that post. Even the post of Joint Director (Agriculture Extension) DPC has also been convened for the year 2006-2007 and promotions order on the recommendation of such

DPC has already been issued. But presently five posts are lying vacant because no eligible person was available in the Extension Wing for promotion on the post of Joint Director (Agriculture Extension). Promotions on the post of Dy. Director (Agriculture Extension) have already been made up to the year 2005-2006 and DPC for the year 2005-2006 has already convened on 14th August, 2000. They have also submitted that the promotion on the post of Assistant Director (Agriculture Extension) have already been made up to the year 2005-2006 and similarly the promotions on the post of Assistant Officer (Extension) have been made up to the period 1999-2000 and for the subsequent period request has already been sent to RPSC for it has to be associated with the process of consideration for promotion. Lastly, the respondents submitted that even though the promotion on the post of Assistant Agricultural Officer (Extension) have already been made up to the year 1996-97, for the subsequent period, however such promotions could not be made because on a pending litigation before this Court. However to ensure smother functioning of the department, the respondents have already promoted 250

persons from the Extension Wing against the available 320 vacancies.

I have heard Mr.R.S. Saluja, learned counsel for the petitioner and Mr.N.M. Lodha, learned Additional Advocate General and perused the records.

Having heard the learned counsel for the parties, I find that the grievances raised by the petitioner that the respondents have not been making promotions on the senior post is completely unfounded and contrary to the facts. It surprisingly that even though the writ petition was filed on 18th July, 2005, the petitioner did not disclose the correct facts about promotions on the various posts having already been made by that time. Even during the pendency of the writ petition, the respondents have taken concrete steps to fill up all the promotional posts on regular basis excepting two posts namely the Agricultural Officer (Extension) and Assistant Agricultural Officer (Extension). For the post of Agriculture Officer (Extension) it has been submitted by them that

promotions on this posts have already been made up to the period 1999-2000 and steps are being taken for making such promotions for the subsequent period and RPSC was being approached for initiating the process of promotions. In so far as the post of Assistant Agricultural Officer (Extension), the respondents have submitted that although the regular promotions on that post have been made up to the year 1996-97 but promotions for subsequent period could not be made because of litigation pending before this Court. During the course of the arguments, learned counsel for the respondents submitted that the stay order passed in such litigation was still in force and therefore till the matter was decided, the respondents could not proceed to make promotions on the post of Agricultural Officer (Extension) and Assistant Agricultural Officer (Extension). The respondents have submitted that the respondent department would make efforts to ensure that timely promotions are granted on various senior posts as has been its endeavour in the past as well.

Coming to the question of transfer to another wing, it

would be seen that as far as the post of Joint Director is concerned, the respondents have came out with a plea that as against five vacant posts, eligible candidates are not available in the Extension Wing for promotion on this post although DPC has been convened even up to the year 2006-2007. The respondents have also submitted that persons from Research Wing are also being posted in Extension Wing. Transfers from one Wing to another are made on equivalent post in the same status and the pay. When such postings are being made only on temporary basis and that too by way of stop gap arrangements, mere posting of officers from one wing to another would not create any right in the posted personnel. He would continue to retain his lien and placement in the seniority in his parent cadre. Such stop gap arrangements are made by the Government in exigencies of service.

Having considered the entire case, I do not find it to be a fit case where this Court should interfere in the functioning of the Government as it should always have a freedom to run the administration according to exigencies and need of the time.

As a result of the above discussion, I do not find any merit in the writ petition and the same is dismissed with no order as to costs.

[MOHAMMAD RAFIQ],

J.

Ashwini/-